



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
CONFERENCE ROOM 280, 2ND FLOOR
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY, OCTOBER 26, 2010 – 9:00 A.M.

AGENDA

CASE NO. 10-028 – Application has been made by **The Heirs of Mary Virginia Mothershed (Represented by Jeffrey H. Filer)** for property located at **6625 Amos Smith Road, Tax Parcel Number 113-082-34**, requesting two variances: (1) a 16 foot variance from the required 100 foot buffer along the shoreline of the Catawba River/Lake Wylie to allow the construction of a kitchen addition in the front of the existing structure and (2) a 69 foot variance from the required 100 foot buffer along the shoreline of the Catawba River/Lake Wylie to allow the construction of a master suite addition to the rear of the structure. **Code Section 2.201** defines a nonconforming structure as any structure lawfully existing on the effective date of these regulations, or on the effective date of any amendment thereto, which does not comply with these regulations or any amendment thereto, whichever might be applicable. **Code Section 7.103(1)** states that a nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this section. **Code Section 7.103(2)** states that normal repair and maintenance may be performed to allow the continuation of nonconforming structures. **Code Section 7.103(3)** states that a nonconforming structure shall not undergo a change or use, renovation or expansion except as provided in subsections (4) and (5). **Code Section 7.103(4)** states that a nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that: (a) the change in use or renovation does not increase the floor area of the structure. **Code Section 7.103(5)** states that a nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of these regulations. **Code Section 9.202(2)** states that detached dwellings are a permitted use by right in R-5 zoned district. **Code Section 10.602** defines the Buffer as a natural or vegetated undisturbed area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the full pond elevation of impounded structures and from the top of the bank of each side of streams or river. The Critical Area is defined as the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The Normal Pool Elevation is defined as the Catawba River, Lake Wylie normal pool elevation as determined by United States Geological Survey (U.S.G.S.) Datum. The Septic Tank System is defined as a ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field. The State Standard is a quality standard for an applicable WS classification as established by the North Carolina Environmental Management Commission. The Protected Area is defined as the area adjoining and upstream of the Critical Area of water supply watersheds where risk of water quality degradation from pollution while still greater than non watershed designated areas, is less than in the Critical Area. The Variance Major Watershed is defined as a variance from the requirements of this part that would result in the relaxation of a State Standard and any one or more of the following: (1) the relaxation, by a factor

greater than ten (10%) percent, of any management requirement under the low density option, (2) the relaxation, by a factor greater than five (5%) percent, of any buffer, density, or built-upon area requirement under the high density option, and (3) any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water management system. The Perennial Stream is defined as a stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. **Code Section 10.608(1)(a)** states that in the critical area, the minimum buffer low density option is 100 feet.

CASE NO. 10-038 – Application has been made by Michael and Melissa Steinitz (**Represented by Ralph McMillan**) *for property located at 1830 Dove Cottage Drive, Tax Parcel Number 211-641-32*, requesting a 4.3 foot variance from the required 45 foot minimum rear yard to allow an existing structure to encroach into the rear yard. **Code Section 2.201** defines the **required rear yard** as the minimum distance required by this Ordinance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot as measured parallel to the rear lot line, projected to the side lines of the lot on which the building or structure is located. **Code Section 9.205(g)** requires a minimum rear yard of 45 feet in an R-3 zoned district. **Code Section 12.106(1)** states that no principal building or principal structure shall be located within any setback or yard required by these regulations.

CASE NO. 10-041 – Application has been made by **Thomas Hunter** *for property located at 1050 Watts Drive, Tax Parcel Number 037-028-02*, requesting a 5 foot variance from the required 6 foot minimum side yard to allow an accessory structure to be located in the required side yard and established setback. **Code Section 2.201** defines **required side yard** as the minimum distance required by this ordinance between the side lot line and the side building line, extending from the established setback to the established rear yard. If no setback is required, the side yard shall be defined as extending from the street line to the rear yard. An **accessory structure** is defined as a structure that is customarily or typically subordinate to and serves a principal structure; and is located on the same lot as the principal structure. A **required setback** is defined as the minimum distance required by this ordinance between the street right-of-way line and the front building line of a principal building or structure as measured parallel from the street right-of-way line, projected to the side lines of the lot. In the case of a through lot, a required setback also will be measured from the right-of-way line at the rear of the lot to the rear building line. **Code Section 9.205(1)(f)** requires a minimum required side yard of 6 feet in an R-3 zoned district. **Code Section 12.106(2)(a)** states that no accessory structures, including architectural features shall be located within any setback or side yard required of these regulations, or located within three (3) feet of a lot line in the established rear yard. No accessory structure shall be located within any established setback in any residential district, except as otherwise provided. If an accessory structure exceeds the height of the principal structure it must meet the minimum side yard of the principal structure and be located at least 15 feet from the rear property line. In addition, no accessory structure shall exceed the total square footage of the heated area located on the first floor of the principal structure. **Code Section 12.107(1)(b)** states each building on the lot is separated by at least 4 feet from any other building on the lot, unless a lesser standard is established in these regulations.

CASE NO. 10-039 (APPEAL) – Application has been made by **Cosmos Café, LLC** (**Represented by Collin W. Brown**) *for property located at 8420 Rea Road, Tax Parcel Number 229-101-09*, appealing a notice of violation which states that a nightclub is being operated illegally at 8420 Rea Road. **Code Section 2.201** defines a **nightclub** as any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges, and cabarets. A **restaurant** is defined as an establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages. **Code Section 9.803 (19)** states that any structure in which nightclubs, bars and lounges (B-1 and B-2 only) are the principal use shall be located at least 400 feet from any residential use or residential district. **Code Section 11.503** states that the intent of the Neighborhood Services District is to provide for uses that directly serve the neighborhood in which they are located. Uses allowed by right and under prescribed conditions in the B-1 district are allowed.

CASE NO. 10-040 – Application has been made by **Cosmos Café, LLC** (**Represented by Collin W.**

Brown) for property located at 8420 Rea Road, Tax Parcel Number 229-101-09, requesting two variances: (1) a 275 foot variance from the required 400 foot distance to allow a nightclub to be located 125 feet from a residential district and (2) a 50 foot variance from the required 400 foot distance to allow a nightclub to be located 350 feet from a residential district. **Code Section 2.201** defines a **nightclub** as any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges, and cabarets. A **restaurant** is defined as an establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages. **Code Section 9.803 (19)** states that any structure in which nightclubs, bars and lounges (B-1 and B-2 only) are the principal use shall be located at least 400 feet from any residential use or residential district. **Code Section 11.503** states that the intent of the Neighborhood Services District is to provide for uses that directly serve the neighborhood in which they are located. Uses allowed by right and under prescribed conditions in the B-1 district are allowed.

BUSINESS

Approval of Minutes

THE BOARD RESERVES THE RIGHT TO DEVIATE FROM THE AGENDA. ~

City of Charlotte will comply with the American Disabilities Act (ADA), which prohibits discrimination on the basis of disability. Anyone needing special accommodations when attending this meeting and/or if this information is needed in an alternative format because of a disability please contact the Clerk to the Charlotte Zoning Board of Adjustment, (704) 336-3818 or skenedy@ci.charlotte.nc.us, at least 72 hours prior to the meeting.
